

Union Calendar No. 477

116TH CONGRESS
2^D SESSION

H. R. 8408

[Report No. 116–579]

To direct the Administrator of the Federal Aviation Administration to require certain safety standards relating to aircraft, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2020

Mr. DEFazio (for himself, Mr. GRAVES of Missouri, Mr. LARSEN of Washington, and Mr. GRAVES of Louisiana) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

NOVEMBER 16, 2020

Reported from the Committee on Transportation and Infrastructure; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To direct the Administrator of the Federal Aviation Administration to require certain safety standards relating to aircraft, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Aircraft Certification Reform and Accountability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Safety management systems.
- Sec. 3. Expert review of organization designation authorizations for transport
airplanes.
- Sec. 4. Certification oversight staff.
- Sec. 5. Disclosure of safety-critical information.
- Sec. 6. Periodic reviews of organization designation authorizations.
- Sec. 7. Limitations on delegation.
- Sec. 8. Oversight of organization designation authorization unit members.
- Sec. 9. Integrated project teams.
- Sec. 10. Oversight integrity briefing.
- Sec. 11. Appeals of certification decisions.
- Sec. 12. Employment restrictions.
- Sec. 13. Professional development and skills enhancement.
- Sec. 14. Voluntary safety reporting program.
- Sec. 15. Compensation limitation.
- Sec. 16. System safety assessments and other requirements.
- Sec. 17. Flight crew alerting.
- Sec. 18. Amended type certificates.
- Sec. 19. Whistleblower protections.
- Sec. 20. Pilot training.
- Sec. 21. Nonconformity with approved type design.
- Sec. 22. Implementation of recommendations.
- Sec. 23. Oversight of FAA compliance program.
- Sec. 24. Settlement agreement.
- Sec. 25. Human factors.
- Sec. 26. Technical corrections.
- Sec. 27. Definitions.

8 **SEC. 2. SAFETY MANAGEMENT SYSTEMS.**

9 (a) IN GENERAL.—Not later than 30 days after the
 10 date of enactment of this Act, the Administrator shall ini-
 11 tiate a rulemaking proceeding to require each person who
 12 holds both a type certificate and a production certificate

1 issued under section 44704 of title 49, United States
2 Code, to adopt, not later than the earlier of the date that
3 is 180 days after the issuance of the regulation required
4 under this subsection or the date that is 4 years after the
5 date of enactment of this Act, a safety management sys-
6 tem consistent with the standards and recommended prac-
7 tices contained in annex 19 to the Convention on Inter-
8 national Civil Aviation (61 Stat. 1180) in effect on the
9 earlier of the date of the issuance of such regulations or
10 the date that is 4 years after the date of enactment of
11 this Act.

12 (b) CONTENTS OF REGULATIONS.—The regulations
13 issued under subsection (a) shall, at a minimum, include
14 provisions for the Administrator’s approval of, and regular
15 oversight of adherence to, a certificate holder’s safety
16 management system adopted pursuant to such regula-
17 tions.

18 (c) DEADLINE.—Not later than 12 months after the
19 end of the comment period for the proposed rule issued
20 pursuant to subsection (a), the Administrator shall issue
21 a final rule with respect to such proposed rule.

22 (d) SAFETY REPORTING PROGRAM.—The regulations
23 issued under subsection (a) shall require a safety manage-
24 ment system to include a confidential employee reporting
25 system through which employees can report hazards,

1 issues, concerns, occurrences, and incidents. A reporting
2 system under this subsection shall include provisions for
3 non-punitive reporting of such items by employees in a
4 manner consistent with other confidential employee re-
5 porting systems administered by the Administrator. Such
6 regulations shall also require a certificate holder described
7 in subsection (a) to submit a summary of reports received
8 under this subsection to the Administrator at least twice
9 per year.

10 (e) CODE OF ETHICS.—The regulations issued under
11 subsection (a) shall require a safety management system
12 to include establishment of a code of ethics applicable to
13 all employees of a certificate holder, including officers,
14 which clarifies that safety is the organization’s highest pri-
15 ority.

16 (f) PROTECTION OF SAFETY INFORMATION.—Section
17 44735(a) of title 49, United States Code, is amended—

18 (1) by striking “title 5 if the report” and in-
19 serting the following: “title 5—

20 “(1) if the report”;

21 (2) by striking the period at the end and insert-
22 ing “; or”; and

23 (3) by adding at the end the following:

24 “(2) if the report, data, or other information is
25 submitted to the Federal Aviation Administration

1 pursuant to section 2(d) of the Aircraft Certification
2 Reform and Accountability Act.”.

3 **SEC. 3. EXPERT REVIEW OF ORGANIZATION DESIGNATION**
4 **AUTHORIZATIONS FOR TRANSPORT AIR-**
5 **PLANES.**

6 (a) EXPERT REVIEW.—

7 (1) ESTABLISHMENT.—Not later than 30 days
8 after the date of enactment of this Act, the Adminis-
9 trator shall convene an expert panel (in this section
10 referred to as the “review panel”) to review and
11 make findings and recommendations on the matters
12 listed in paragraph (2).

13 (2) CONTENTS OF REVIEW.—With respect to
14 each holder of an organization designation author-
15 ization for the design and production of transport
16 airplanes, the review panel shall review the following:

17 (A) The extent to which the holder has im-
18 plemented a safety culture consistent with the
19 principles of the International Civil Aviation
20 Organization Safety Management Manual,
21 Fourth Edition (International Civil Aviation
22 Organization Doc. No. 9589) or any similar
23 successor document.

24 (B) The effectiveness of measures insti-
25 tuted by the holder to instill, among employees

1 and contractors of such holder that support or-
2 ganization designation authorization functions,
3 a commitment to safety above all other prior-
4 ities.

5 (C) The holder's capability, based on the
6 holder's organizational structures, requirements
7 applicable to officers and employees of such
8 holder, and safety culture, of making reasonable
9 and appropriate decisions regarding functions
10 delegated to the holder pursuant to the organi-
11 zation designation authorization.

12 (D) Any other matter determined by the
13 Administrator for which inclusion in the review
14 would be consistent with the public interest in
15 aviation safety.

16 (3) COMPOSITION OF REVIEW PANEL.—The re-
17 view panel shall consist of—

18 (A) 2 representatives of the National Aero-
19 nautics and Space Administration;

20 (B) 2 employees of the Administration's
21 Aircraft Certification Service with experience
22 conducting oversight of persons not involved in
23 the design or production of transport airplanes;

24 (C) 1 employee of the Administration's
25 Aircraft Certification Service with experience

1 conducting oversight of persons involved in the
2 design or production of transport airplanes;

3 (D) 2 employees of the Administration's
4 Flight Standards Service with experience in
5 oversight of safety management systems;

6 (E) 1 appropriately qualified representa-
7 tive, designated by the applicable represented
8 organization, of each of—

9 (i) a labor union representing airline
10 pilots involved in both passenger and all-
11 cargo operations;

12 (ii) a labor union, not selected under
13 clause (i), representing airline pilots with
14 expertise in the matters described in para-
15 graph (2);

16 (iii) a labor union representing em-
17 ployees engaged in the assembly of trans-
18 port airplanes;

19 (iv) the certified bargaining represent-
20 ative under section 7111 of title 5, United
21 States Code, for field engineers engaged in
22 the audit or oversight of an organization
23 designation authorization within the Air-
24 craft Certification Service of the Adminis-
25 tration; and

1 (v) the certified bargaining represent-
2 ative for safety inspectors of the Adminis-
3 tration;

4 (F) 2 independent experts who have not
5 served as a political appointee in the Adminis-
6 tration and—

7 (i) who hold either a baccalaureate or
8 postgraduate degree in the field of aero-
9 space engineering or a related discipline;
10 and

11 (ii) who have a minimum of 20 years
12 of relevant applied experience;

13 (G) 4 air carrier employees whose job re-
14 sponsibilities include administration of a safety
15 management system; and

16 (H) 4 individuals representing 4 different
17 holders of organization designation authoriza-
18 tions, with preference given to individuals rep-
19 resenting holders of organization designation
20 authorizations for the design or production of
21 aircraft other than transport airplanes or for
22 the design or production of aircraft engines,
23 propellers, or appliances.

24 (4) RECOMMENDATIONS.—The review panel
25 shall make recommendations to the Administrator

1 regarding suggested actions to address any defi-
2 ciencies found after review of the matters listed in
3 paragraph (2).

4 (5) REPORT.—

5 (A) SUBMISSION.—Not later than 270
6 days after the date on which the review panel
7 is established, the review panel shall transmit to
8 the Administrator and the congressional com-
9 mittees of jurisdiction a report containing the
10 findings and recommendations of the review
11 panel regarding the matters listed in paragraph
12 (2), except that such report shall include—

13 (i) only such findings endorsed by 10
14 or more individual members of the review
15 panel; and

16 (ii) only such recommendations de-
17 scribed in paragraph (4) endorsed by 18 or
18 more of the individual members of the re-
19 view panel.

20 (B) DISSENTING VIEWS.—In submitting
21 the report required under this paragraph, the
22 review panel shall append to such report the
23 dissenting views of any individual member or
24 group of members of the review panel regarding

1 the findings or recommendations of the review
2 panel.

3 (C) PUBLICATION.—Not later than 5 days
4 after receiving the report under subparagraph
5 (A), the Administrator shall publish such re-
6 port, including any dissenting views appended
7 to the report, on the website of the Administra-
8 tion.

9 (D) TERMINATION.—The review panel
10 shall terminate upon submission of the report
11 under subparagraph (A).

12 (6) ADMINISTRATIVE PROVISIONS.—

13 (A) ACCESS TO INFORMATION.—The re-
14 view panel shall have authority to perform the
15 following actions if a majority of the total num-
16 ber of review panel members consider each ac-
17 tion necessary and appropriate:

18 (i) Entering onto the premises of an
19 organization designation authorization
20 holder described in subsection (a) for ac-
21 cess to and inspection of records or other
22 purposes.

23 (ii) Notwithstanding any other provi-
24 sion of law, accessing and inspecting
25 unredacted records in the possession of an

1 employee or appointed political official of
2 the Administration.

3 (iii) Interviewing employees of such
4 organization designation authorization
5 holder or the Administration as necessary
6 for the panel to complete its work.

7 (B) DISCLOSURE OF FINANCIAL INTER-
8 ESTS.—Each individual serving on the review
9 panel shall disclose to the Administrator any fi-
10 nancial interest held by such individual, or a
11 spouse or dependent of such individual, in a
12 business enterprise engaged in the design or
13 production of transport airplanes, aircraft en-
14 gines designed for transport airplanes, or major
15 systems, components, or parts thereof. The Ad-
16 ministrator shall publicly post such disclosure
17 on the website of the Administration in a de-
18 identified form.

19 (C) PROTECTION OF PROPRIETARY INFOR-
20 MATION; TRADE SECRETS.—

21 (i) MARKING.—The custodian of a
22 record accessed under subparagraph (A)
23 may mark such record as proprietary or
24 containing a trade secret. A marking under
25 this subparagraph shall not be dispositive

1 with respect to whether such record con-
2 tains any information subject to legal pro-
3 tections from public disclosure.

4 (ii) NONDISCLOSURE FOR NON-FED-
5 ERAL GOVERNMENT PARTICIPANTS.—

6 (I) NON-FEDERAL GOVERNMENT
7 PARTICIPANTS.—Prior to partici-
8 pating on the review panel, each indi-
9 vidual serving on the review panel rep-
10 resenting a non-Federal entity, includ-
11 ing a labor union, shall execute an
12 agreement with the Administrator in
13 which the individual shall be prohib-
14 ited from disclosing at any time, ex-
15 cept as required by law, to any per-
16 son, foreign or domestic, any non-pub-
17 lic information made accessible to the
18 panel under subparagraph (A).

19 (II) FEDERAL EMPLOYEE PAR-
20 TICIPANTS.—Federal employees serv-
21 ing on the review panel as representa-
22 tives of the Federal Government and
23 who are required to protect propri-
24 etary information and trade secrets
25 under section 1905 of title 18, United

1 States Code, shall not be required to
2 execute agreements under this sub-
3 paragraph.

4 (iii) PROTECTION OF VOLUNTARILY
5 SUBMITTED SAFETY INFORMATION.—Infor-
6 mation subject to protection from dis-
7 closure by the Administration in accordance
8 with sections 40123 and 44735 of title 49,
9 United States Code, is deemed voluntarily
10 submitted to the Administration under
11 such sections when shared with the review
12 panel and retains its protection from dis-
13 closure (including protection under section
14 552(b)(3) of title 5, United States Code).
15 The custodian of a record subject to such
16 protection may mark such record as sub-
17 ject to statutory protections. A marking
18 under this subparagraph shall not be dis-
19 positive with respect to whether such
20 record contains any information subject to
21 legal protections from public disclosure.
22 Members of the review panel will protect
23 voluntarily submitted safety information
24 and other otherwise exempt information to
25 the extent permitted under applicable law.

1 (iv) PROTECTION OF PROPRIETARY
2 INFORMATION AND TRADE SECRETS.—
3 Members of the review panel will protect
4 proprietary information, trade secrets, and
5 other otherwise exempt information to the
6 extent permitted under applicable law.

7 (v) RESOLVING CLASSIFICATION OF
8 INFORMATION.—If the review panel and an
9 organization designation authorization
10 holder subject to review under this section
11 disagree as to the proper classification of
12 information described in this subpara-
13 graph, then the deputy chief counsel of the
14 Administration shall determine the proper
15 classification of such information and
16 whether such information will be redacted.

17 (D) APPLICABLE LAW.—Public Law 92–
18 463 shall not apply to the panel established
19 under this subsection.

20 (E) FINANCIAL INTEREST DEFINED.—In
21 this paragraph, the term “financial interest”—

22 (i) excludes securities held in an index
23 fund; and

24 (ii) includes—

- 1 (I) any current or contingent
2 ownership, equity, or security interest;
3 (II) an indebtedness or com-
4 pensated employment relationship; or
5 (III) any right to purchase or ac-
6 quire any such interest, including a
7 stock option or commodity future.

8 (b) FAA AUTHORITY.—

9 (1) IN GENERAL.—After reviewing the findings
10 of the review panel submitted under subsection
11 (a)(5), the Administrator may limit, suspend, or ter-
12minate an organization designation authorization
13 subject to review under this section.

14 (2) REINSTATEMENT.—The Administrator may
15 condition reinstatement of a limited, suspended, or
16 terminated organization designation authorization on
17 the holder's implementation of any corrective actions
18 determined necessary by the Administrator.

19 (3) RULE OF CONSTRUCTION.—Nothing in this
20 subsection shall be construed to limit the Adminis-
21 trator's authority to take any action with respect to
22 an organization designation authorization, including
23 limitation, suspension, or termination of such au-
24 thorization.

1 (c) ORGANIZATION DESIGNATION AUTHORIZATION
2 PROCESS IMPROVEMENTS.—Not later than 1 year after
3 receipt of the recommendations submitted under sub-
4 section (a)(5), the Administrator shall—

5 (1) report to the congressional committees of
6 jurisdiction on—

7 (A) whether the Administrator has con-
8 cluded that such holder is able to safely and re-
9 liably perform all delegated functions in accord-
10 ance with all applicable provisions of chapter
11 447 of title 49, United States Code, title 14,
12 Code of Federal Regulations, and other orders
13 or requirements of the Administrator, and, if
14 not, the Administrator shall outline—

15 (i) the risk mitigations or other cor-
16 rective actions, including the implementa-
17 tion timelines of such mitigations or ac-
18 tions, the Administrator has established
19 for or required of such holder as pre-
20 requisites for a conclusion by the Adminis-
21 trator under subparagraph (A); or

22 (ii) the status of any ongoing inves-
23 tigatory actions; and

1 (B) the status of implementation of each
2 of the recommendations of the review panel, if
3 any, with which the Administrator concurs; and
4 (2) report to the congressional committees of
5 jurisdiction on—

6 (A) the status of procedures under which
7 the Administrator will conduct focused over-
8 sight of such holder's processes for performing
9 delegated functions with respect to the design
10 of new and derivative transport airplanes and
11 the production of such airplanes; and

12 (B) the Administrator's efforts, to the
13 maximum extent practicable and subject to ap-
14 propriations, to increase the number of engi-
15 neers, inspectors, and other qualified technical
16 experts, as necessary to fulfill the requirements
17 of this section, in—

18 (i) each office of the Administration
19 responsible for dedicated oversight of such
20 holder; and

21 (ii) the System Oversight Division, or
22 any successor division, of the Aircraft Cer-
23 tification Service.

24 (d) NON-CONCURRENCE WITH RECOMMENDA-
25 TIONS.—Not later than 6 months after receipt of the rec-

1 ommendations submitted under subsection (a)(5), with re-
2 spect to each recommendation of the review panel with
3 which the Administrator does not concur, if any, the Ad-
4 ministrator shall publish on the website of the Administra-
5 tion and submit to the congressional committees of juris-
6 diction a detailed explanation as to why, including if the
7 Administrator believes implementation of such rec-
8 ommendation would not improve aviation safety.

9 **SEC. 4. CERTIFICATION OVERSIGHT STAFF.**

10 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
11 are authorized to be appropriated to the Administrator
12 \$27,000,000 for each of fiscal years 2021 through 2023
13 to recruit and retain engineers, safety inspectors, human
14 factors specialists, and software and cybersecurity experts
15 and other qualified technical experts who perform duties
16 related to the certification of aircraft, aircraft engines,
17 propellers, and appliances.

18 (b) **RECRUITMENT AND RETENTION.**—

19 (1) **BARGAINING UNITS.**—Not later than 30
20 days after the date of enactment of this Act, the Ad-
21 ministrator shall begin collaboration with the exclu-
22 sive bargaining representatives of engineers, safety
23 inspectors, systems safety specialists, and other
24 qualified technical experts certified under section
25 7111 of title 5, United States Code, to improve re-

1 cruitment of employees for, and to implement reten-
2 tion incentives for employees holding, positions with
3 respect to the certification of aircraft, aircraft en-
4 gines, propellers, and appliances. If the Adminis-
5 trator and such representatives are unable to reach
6 an agreement collaboratively, the Administrator and
7 such representatives shall negotiate in accordance
8 with section 40122(a) of title 49, United States
9 Code, to improve recruitment and implement reten-
10 tion incentives for employees described in subsection
11 (a) who are covered under a collective bargaining
12 agreement.

13 (2) OTHER EMPLOYEES.—Notwithstanding any
14 other provision of law, not later than 30 days after
15 the date of enactment of this Act, the Administra-
16 tion shall improve recruitment of, and implement re-
17 tention incentives for, any individual described in
18 subsection (a) who is not covered under a collective
19 bargaining agreement.

20 (3) RULE OF CONSTRUCTION.—Nothing in this
21 section shall be construed to vest in any exclusive
22 bargaining representative any management right of
23 the Administrator, as such right existed on the day
24 before the date of enactment of this Act.

1 (4) AVAILABILITY OF APPROPRIATIONS.—Any
2 action taken by the Administrator under this section
3 shall be subject to the availability of appropriations
4 authorized under subsection (a).

5 **SEC. 5. DISCLOSURE OF SAFETY-CRITICAL INFORMATION.**

6 (a) PROHIBITION.—Section 44704 of title 49, United
7 States Code, is amended by striking subsection (e) and
8 inserting the following:

9 “(e) DISCLOSURE OF SAFETY-CRITICAL INFORMA-
10 TION.—

11 “(1) IN GENERAL.—Notwithstanding a delega-
12 tion described in section 44702(d), the Adminis-
13 trator shall require an applicant for, or holder of, a
14 type certificate for a transport-category aircraft cov-
15 ered under part 25 of title 14, Code of Federal Reg-
16 ulations, to submit safety-critical information with
17 respect to such aircraft to the Administrator in such
18 form, manner, or time as the Administrator may re-
19 quire. Such safety-critical information shall in-
20 clude—

21 “(A) any design and operational details,
22 intended functions, and failure modes of any
23 system that, without being commanded by the
24 flight crew, commands the operation of any
25 safety-critical function or feature required for

1 control of an aircraft during flight or that oth-
2 erwise changes the flight path or airspeed of an
3 aircraft;

4 “(B) the design and operational details, in-
5 tended functions, failure modes, and mode
6 annunciations of autopilot and autothrottle sys-
7 tems, if applicable;

8 “(C) any failure or operating condition
9 that the applicant or holder anticipates or has
10 concluded would result in an outcome with a se-
11 verity level of hazardous or catastrophic, as de-
12 fined in the appropriate Administration air-
13 worthiness requirements and guidance applica-
14 ble to transport-category aircraft defining risk
15 severity;

16 “(D) any adverse handling quality that
17 fails to meet the requirements of applicable reg-
18 ulations without the addition of a software sys-
19 tem to augment the flight controls of the air-
20 craft to produce compliant handling qualities;
21 and

22 “(E) a system safety assessment with re-
23 spect to a system described in subparagraph
24 (A) or (B) or with respect to any component or
25 other system for which failure or erroneous op-

1 eration of such component or system could re-
2 sult in an outcome with a severity level of haz-
3 ardous or catastrophic, as defined in the appro-
4 priate Administration airworthiness require-
5 ments and guidance applicable to transport-cat-
6 egory aircraft defining risk severity.

7 “(2) ONGOING COMMUNICATIONS.—

8 “(A) NEWLY DISCOVERED INFORMA-
9 TION.—The Administrator shall require that an
10 applicant for, or holder of, a type certificate
11 disclose to the Administrator, in such form,
12 manner, or time as the Administrator may re-
13 quire, any newly discovered information or de-
14 sign or analysis change that would materially
15 alter any submission to the Administrator
16 under paragraph (1).

17 “(B) AIRCRAFT SYSTEM DEVELOPMENT
18 CHANGES.—The Administrator shall establish
19 multiple milestones throughout the certification
20 process at which a proposed aircraft system will
21 be assessed to determine whether any change to
22 such system during the certification process is
23 such that such system should be considered
24 novel or unusual by the Administrator.

1 “(3) FLIGHT MANUALS.—The Administrator
2 shall ensure that an aircraft flight manual and a
3 flight crew operating manual (as appropriate or ap-
4 plicable) for an aircraft contains a description of the
5 operation of a system described in paragraph (1)(A)
6 and flight crew procedures for responding to a fail-
7 ure or aberrant operation of such system.

8 “(4) CIVIL PENALTY.—

9 “(A) AMOUNT.—Notwithstanding section
10 46301, an applicant for, or holder of, a type
11 certificate that knowingly violates paragraph
12 (1), (2), or (3) of this subsection shall be liable
13 to the Administrator for a civil penalty of not
14 more than \$1,000,000 for each violation.

15 “(B) PENALTY CONSIDERATIONS.—In de-
16 termining the amount of a civil penalty under
17 subparagraph (A), the Administrator shall con-
18 sider—

19 “(i) the nature, circumstances, extent,
20 and gravity of the violation, including the
21 length of time that such safety-critical in-
22 formation was known but not disclosed;
23 and

24 “(ii) with respect to the violator, the
25 degree of culpability, any history of prior

1 violations, and the size of the business con-
2 cern.

3 “(5) REVOCATION AND CIVIL PENALTY FOR IN-
4 DIVIDUALS.—

5 “(A) IN GENERAL.—The Administrator
6 shall revoke any airline transport pilot certifi-
7 cate issued under section 44703 held by any in-
8 dividual who, while acting on behalf of an appli-
9 cant for, or holder of, a type certificate, know-
10 ingly makes a false statement with respect to
11 any of the matters described in subparagraphs
12 (A) through (D) of paragraph (1).

13 “(B) AUTHORITY TO IMPOSE CIVIL PEN-
14 ALTY.—The Administrator may impose a civil
15 penalty under section 46301 for each violation
16 described in subparagraph (A).

17 “(6) RULE OF CONSTRUCTION.—Nothing in
18 this subsection shall be construed to affect or other-
19 wise inhibit the authority of the Administrator to
20 deny an application by an applicant for a type cer-
21 tificate or to revoke a type certificate of a holder of
22 such certificate.

23 “(7) DEFINITION OF TYPE CERTIFICATE.—In
24 this subsection, the term ‘type certificate’—

1 “(A) means a type certificate issued under
 2 subsection (a) or an amendment to such certifi-
 3 cate; and

4 “(B) does not include a supplemental type
 5 certificate issued under subsection (b).”.

6 (b) CIVIL PENALTY AUTHORITY.—Section 44704 of
 7 title 49, United States Code, is further amended by adding
 8 at the end the following:

9 “(f) HEARING REQUIREMENT.—The Administrator
 10 may find that a person has violated subsection (a)(6) or
 11 paragraph (1), (2), or (3) of subsection (e) and impose
 12 a civil penalty under the applicable subsection only after
 13 notice and an opportunity for a hearing. The Adminis-
 14 trator shall provide a person—

15 “(1) written notice of the violation and the
 16 amount of penalty; and

17 “(2) the opportunity for a hearing under sub-
 18 part G of part 13 of title 14, Code of Federal Regu-
 19 lations.”.

20 **SEC. 6. PERIODIC REVIEWS OF ORGANIZATION DESIGNA-**
 21 **TION AUTHORIZATIONS.**

22 Section 44736 of title 49, United States Code, is
 23 amended—

24 (1) by redesignating subsection (c) as sub-
 25 section (d); and

1 (2) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) PERIODIC REVIEWS.—

4 “(1) IN GENERAL.—Not less than once every 7
5 years, the Administrator shall conduct a comprehen-
6 sive review of the capability of each ODA holder for
7 the design of an aircraft, aircraft engine, propeller,
8 or appliance pursuant to a delegation by the Admin-
9 istrator under section 44702(d) to meet the require-
10 ments of subpart D of part 183 of title 14, Code of
11 Federal Regulations, based on the holder’s organiza-
12 tional structures, requirements applicable to officers
13 and employees, and safety culture.

14 “(2) CONTENTS OF REVIEW.—A comprehensive
15 review under this subsection shall include an assess-
16 ment of the effectiveness of, and organization-wide
17 adherence to, an ODA holder’s procedures manual
18 and voluntary safety reporting system.”.

19 **SEC. 7. LIMITATIONS ON DELEGATION.**

20 Section 44702(d) of title 49, United States Code, is
21 amended by adding at the end the following:

22 “(4) Notwithstanding any other provision of
23 law, the Administrator may not delegate a matter
24 under this subsection—

1 “(A) with respect to the certification of the
 2 design of a novel or unusual design feature that
 3 results in a major change to a type design, ex-
 4 cept when the Administrator determines—

5 “(i) a matter is a routine task; or

6 “(ii) during the course of the certifi-
 7 cation process, that a matter no longer re-
 8 lates to a novel or unusual design feature;
 9 or

10 “(B) on the sole basis that the Federal
 11 Aviation Administration lacks a sufficient num-
 12 ber of personnel qualified or with the requisite
 13 expertise to perform the function.”.

14 **SEC. 8. OVERSIGHT OF ORGANIZATION DESIGNATION AU-**
 15 **THORIZATION UNIT MEMBERS.**

16 (a) IN GENERAL.—Chapter 447 of title 49, United
 17 States Code, as amended by this Act, is amended by add-
 18 ing at the end the following:

19 **“§ 44741. Approval of organization designation au-**
 20 **thorization unit members**

21 “(a) IN GENERAL.—Beginning on the date that is 1
 22 year after the date of enactment of the Aircraft Certifi-
 23 cation Reform and Accountability Act, each individual who
 24 is selected on or after such date to become a member of
 25 an ODA unit by an ODA holder engaged in the design

1 of an aircraft, aircraft engine, propeller, or appliance and
2 performs an authorized function pursuant to a delegation
3 by the Administrator of the Federal Aviation Administra-
4 tion under section 44702(d)—

5 “(1) shall be an employee, a contractor, or the
6 employee of a supplier of the ODA holder; and

7 “(2) may not become a member of such unit
8 unless approved by the Administrator pursuant to
9 this section.

10 “(b) PROCESS AND TIMELINE.—

11 “(1) IN GENERAL.—The Administrator shall
12 maintain an efficient process for the review and ap-
13 proval of an individual to become a member of an
14 ODA unit under this section.

15 “(2) PROCESS.—An ODA holder described in
16 subsection (a) may submit to the Administrator an
17 application for an individual to be approved to be-
18 come a member of an ODA unit under this section.
19 The application shall be submitted in such form and
20 manner as the Administrator determines appro-
21 priate. The Administrator shall require an ODA
22 holder to submit with such an application informa-
23 tion sufficient to demonstrate an individual’s quali-
24 fications under subsection (c).

1 “(3) TIMELINE.—The Administrator shall ap-
2 prove or reject an individual that is selected by an
3 ODA holder to become an ODA unit member under
4 this section not later than 30 days after the receipt
5 of an application by an ODA holder.

6 “(4) DOCUMENTATION OF APPROVAL.—Upon
7 approval of an individual to become a member of an
8 ODA unit under this section, the Administrator shall
9 provide such individual a letter confirming that such
10 individual has been approved by the Administrator
11 under this section to be an ODA unit member.

12 “(5) REAPPLICATION.—An ODA holder may
13 submit an application under this subsection for an
14 individual to become a member of an ODA unit
15 under this section regardless of whether an applica-
16 tion for such individual was previously rejected by
17 the Administrator.

18 “(c) QUALIFICATIONS.—

19 “(1) IN GENERAL.—The Administrator shall
20 issue minimum qualifications for an individual to be-
21 come a member of an ODA unit under this section.
22 In issuing such qualifications, the Administrator
23 shall consider existing qualifications for Administra-
24 tion employees with similar duties and whether such
25 individual—

1 “(A) is technically proficient and qualified
2 to perform the authorized functions sought;

3 “(B) has no recent record of serious en-
4 forcement action, as determined by the Admin-
5 istrator, taken by the Administrator with re-
6 spect to any certificate, approval, or authoriza-
7 tion held by such individual;

8 “(C) is of good moral character (as such
9 qualification is applied to an applicant for an
10 airline transport pilot certificate issued under
11 section 44703);

12 “(D) possesses the knowledge of applicable
13 design or production requirements in this chap-
14 ter and in title 14, Code of Federal Regula-
15 tions, necessary for performance of the author-
16 ized functions sought;

17 “(E) possesses a high degree of knowledge
18 of applicable design or production principles,
19 system safety principles, or safety risk manage-
20 ment processes appropriate for the authorized
21 functions sought; and

22 “(F) meets such testing, examination,
23 training, or other qualification standards as the
24 Administrator determines are necessary to en-

1 sure the individual is competent and capable of
2 performing the authorized functions sought.

3 “(2) PREVIOUSLY REJECTED APPLICATION.—In
4 reviewing an application for an individual to become
5 a member of an ODA unit under this section, if an
6 application for such individual was previously re-
7 jected, the Administrator shall ensure that the rea-
8 sons for the prior rejection have been resolved or
9 mitigated to the Administrator’s satisfaction before
10 making a determination on the individual’s re-
11 application.

12 “(d) RESCISSION OF APPROVAL.—The Administrator
13 may rescind an approval of an individual as a member of
14 an ODA unit granted pursuant to this section at any time
15 and for any reason the Administrator considers appro-
16 priate. The Administrator shall develop procedures to pro-
17 vide for notice and opportunity to appeal rescission deci-
18 sions made by the Administrator. Such decisions by the
19 Administrator are not subject to judicial review.

20 “(e) RECORDS AND BRIEFINGS.—

21 “(1) IN GENERAL.—Beginning on the date de-
22 scribed in subsection (a), an ODA holder shall main-
23 tain, for a period to be determined by the Adminis-
24 trator and with proper protections to ensure the se-
25 curity of sensitive and personal information—

1 “(A) any data, applications, records, or
2 manuals required by the ODA holder’s ap-
3 proved procedures manual, as determined by
4 the Administrator;

5 “(B) the names, responsibilities, qualifica-
6 tions, and example signature of each member of
7 the ODA unit who performs an authorized
8 function pursuant to a delegation by the Ad-
9 ministrator under section 44702(d);

10 “(C) training records for ODA unit mem-
11 bers and ODA administrators; and

12 “(D) any other data, applications, records,
13 or manuals determined appropriate by the Ad-
14 ministrator.

15 “(2) CONGRESSIONAL BRIEFING.—Not later
16 than 90 days after the date of enactment of the Air-
17 craft Certification Reform and Accountability Act,
18 and every 90 days thereafter through September 30,
19 2023, the Administrator shall provide to the Com-
20 mittee on Transportation and Infrastructure of the
21 House of Representatives and Committee on Com-
22 merce, Science, and Transportation of the Senate a
23 briefing on the implementation and effects of this
24 section, including—

1 “(A) the Administration’s performance in
2 completing reviews of individuals and approving
3 or denying such individuals within the timeline
4 required under subsection (b)(3);

5 “(B) for any individual rejected by the Ad-
6 ministrator under subsection (b) during the
7 preceding 90-day period, the reasoning or basis
8 for such rejection; and

9 “(C) any resource, staffing, or other chal-
10 lenges within the Administration associated
11 with implementation of this section.

12 “(f) SPECIAL REVIEW OF QUALIFICATIONS.—

13 “(1) IN GENERAL.—Not later than 30 days
14 after the issuance of minimum qualifications under
15 subsection (c), the Administrator shall initiate a re-
16 view of the qualifications of each individual who on
17 the date on which such minimum qualifications are
18 issued is a member of an ODA unit of a holder of
19 a type certificate for a transport airplane to ensure
20 such individual meets the minimum qualifications
21 issued by the Administrator under subsection (c).

22 “(2) UNQUALIFIED INDIVIDUAL.—For any indi-
23 vidual who is determined by the Administrator not
24 to meet such minimum qualifications pursuant to

1 the review conducted under paragraph (1), the Ad-
2 ministrator—

3 “(A) shall determine whether the lack of
4 qualification may be remedied and, if so, pro-
5 vide such individual with an action plan or
6 schedule for such individual to meet such quali-
7 fications; or

8 “(B) may, if the Administrator determines
9 the lack of qualification may not be remedied,
10 take appropriate action, including prohibiting
11 such individual from performing an authorized
12 function.

13 “(3) DEADLINE.—

14 “(A) The Administrator shall complete the
15 review required under paragraph (1) not later
16 than 18 months after the date on which such
17 review was initiated.

18 “(B) If the Administrator fails to complete
19 the review in compliance with subparagraph
20 (A), the Secretary of Transportation shall as-
21 sume the responsibility for completing the re-
22 view.

23 “(C) The Secretary’s completion of the re-
24 view under subparagraph (B)—

1 “(i) may not be delegated to the Ad-
2 ministration; and

3 “(ii) shall be completed within 120
4 days of the date the Secretary’s assump-
5 tion of responsibility following the Admin-
6 istrator’s failure to complete the review in
7 compliance with subparagraph (A).

8 “(4) SAVINGS CLAUSE.—An individual approved
9 to become a member of an ODA unit of a holder of
10 a type certificate for a transport airplane under sub-
11 section (a) shall not be subject to the review under
12 this subsection.

13 “(g) PROHIBITION.—The Administrator may not au-
14 thorize an organization or ODA holder to approve an indi-
15 vidual selected by an ODA holder to become an ODA unit
16 member under this section.

17 “(h) DEFINITIONS.—

18 “(1) GENERAL APPLICABILITY.—The defini-
19 tions contained in section 44736 shall apply to this
20 section.

21 “(2) TRANSPORT AIRPLANE.—The term ‘trans-
22 port airplane’ means a transport-category airplane
23 designed for operation by an air carrier or foreign
24 air carrier type-certificated with a passenger seating

1 capacity of 30 or more or an all-cargo or combi de-
2 rivative of such an airplane.

3 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section
5 \$3,000,000 for each of fiscal years 2021 through 2023.

6 **“§ 44742. Interference with the duties of organization**
7 **designation authorization unit members**

8 “(a) IN GENERAL.—The Administrator of the Fed-
9 eral Aviation Administration shall continuously seek to
10 eliminate or minimize interference by an ODA holder that
11 affects the performance of authorized functions by mem-
12 bers of an ODA unit.

13 “(b) PROHIBITION.—

14 “(1) IN GENERAL.—It shall be unlawful for any
15 individual who is employed by an ODA holder to
16 commit an act of interference with an ODA unit
17 member’s performance of authorized functions.

18 “(2) CIVIL PENALTY.—

19 “(A) INDIVIDUALS.—An individual shall be
20 subject to a civil penalty under section
21 46301(a)(1) for each violation under paragraph
22 (1).

23 “(B) SAVINGS CLAUSE.—Nothing in this
24 paragraph shall be construed as limiting or con-
25 stricting any other authority of the Adminis-

1 trator to pursue an enforcement action against
2 an individual or organization for violation of ap-
3 plicable Federal laws or regulations of the Ad-
4 ministration.

5 “(c) REPORTING.—

6 “(1) REPORTS TO ODA HOLDER.—A member of
7 an ODA unit shall promptly report any instances of
8 interference experienced or witnessed by such mem-
9 ber to the office of the ODA holder that is des-
10 ignated to receive such reports.

11 “(2) REPORTS TO THE FAA.—

12 “(A) IN GENERAL.—The ODA holder of-
13 fice described in paragraph (1) shall submit to
14 the office of the Administration designated by
15 the Administrator to accept and review such re-
16 ports any credible instances of interference re-
17 ported under paragraph (1).

18 “(B) CONTENTS.—A report to the Admin-
19 istration under this paragraph shall be sub-
20 mitted in a manner, at a time, and in a form
21 prescribed by the Administrator. Such report
22 shall include the results of any investigation
23 conducted by the ODA holder in response to a
24 report of interference, a description of any ac-
25 tion taken by the ODA holder as a result of the

1 report of interference, and any other informa-
2 tion or potentially mitigating factors the ODA
3 holder or the Administrator deems appropriate.

4 “(C) USE OF REPORT.—The Administrator
5 may use the information submitted in a report
6 under this paragraph, including the actions
7 taken by an ODA holder in response to a report
8 under paragraph (1), in determining whether to
9 issue a civil penalty pursuant to subsection (b)
10 or whether such civil penalty should be subject
11 to a setoff or compromised.

12 “(3) RULE OF CONSTRUCTION.—Nothing in
13 this subsection shall be construed to preclude a
14 member of an ODA unit from reporting an instance
15 of interference reported under paragraph (1) directly
16 to the Administration. Each ODA holder shall pro-
17 vide notice to each member of such holder’s ODA
18 unit stating that such individual may report an in-
19 stance of interference reported under paragraph (1)
20 directly to the Administration.

21 “(d) DEFINITIONS.—

22 “(1) GENERAL APPLICABILITY.—The defini-
23 tions contained in section 44736 shall apply to this
24 section.

1 “(2) INTERFERENCE.—In this section, the term
2 ‘interference’ means—

3 “(A) blatant or egregious statements or be-
4 havior, such as harassment, beratement, or
5 threats, that a reasonable person would con-
6 clude was intended to improperly influence or
7 prejudice an ODA unit member’s performance
8 of his or her duties; or

9 “(B) the presence of non-ODA unit duties
10 or activities that conflict with the performance
11 of authorized functions by ODA unit mem-
12 bers.”.

13 (b) LATERAL COMMUNICATIONS.—

14 (1) CONTACT WITH ADMINISTRATION.—The
15 Administrator shall ensure that employees of the Ad-
16 ministration with responsibility for aircraft certifi-
17 cation functions may directly contact non-managerial
18 employees of an aircraft manufacturer for consulta-
19 tion regarding the certification of aircraft design,
20 production, and other matters.

21 (2) PROHIBITION.—It shall be a violation of
22 section 44736(a)(2)(C) of title 49, United States
23 Code, for a manufacturer to prohibit employees from
24 contacting any employee of the Administration or
25 otherwise impose any condition, restriction, or pen-

1 alty (including by requiring prior notice to or the ap-
 2 proval of any supervisor or manager) with respect to
 3 such contact, except that such manufacturer may in-
 4 stitute reasonable, company-wide policies requiring
 5 documentation of communications regarding aircraft
 6 design or production between the manufacturer’s
 7 employees and Administration employees.

8 (c) ODA PROGRAM ENHANCEMENTS.—Section
 9 44736 of title 49, United States Code, is further amend-
 10 ed—

11 (1) in subsection (a)—

12 (A) in paragraph (1)—

13 (i) in subparagraph (A) by striking
 14 the semicolon and inserting “; and”;

15 (ii) by striking subparagraph (B);

16 (iii) in subparagraph (C) by striking
 17 “; and” and inserting a period;

18 (iv) by striking subparagraph (D);

19 and

20 (v) by redesignating subparagraph (C)
 21 as subparagraph (B); and

22 (B) in paragraph (3) by striking “shall—
 23 ” and all that follows through the end and in-
 24 serting “shall conduct regular oversight activi-
 25 ties by inspecting the ODA holder’s delegated

1 functions and taking action based on validated
2 inspection findings.”; and

3 (2) in subsection (b)(3)—

4 (A) in subparagraph (A)—

5 (i) by striking clause (i) and redesign-
6 nating clauses (ii), (iii), and (iv) as clauses
7 (i), (ii), and (iii), respectively;

8 (ii) in clause (i) as redesignated by in-
9 serting “, as appropriate,” after “require”;

10 (iii) in clause (ii) as redesignated by
11 inserting “, as appropriate,” after “re-
12 quire”; and

13 (iv) in clause (iii) as redesignated by
14 inserting “when appropriate,” before
15 “make a reassessment”;

16 (B) by striking subparagraph (B);

17 (C) in subparagraph (D) by striking the
18 semicolon and inserting “; and”;

19 (D) in subparagraph (E) by striking “;
20 and” and inserting a period;

21 (E) in subparagraph (F) by inserting “,
22 when appropriate,” before “approve”; and

23 (F) by redesignating subparagraphs (C),
24 (D), (E), and (F) as subparagraphs (B), (C),
25 (D), and (E), respectively.

1 (d) TECHNICAL CORRECTIONS.—

2 (1) SECTION 44737.—Chapter 447 of title 49,
3 United States Code, is further amended by redesign-
4 ating the second section 44737 (as added by sec-
5 tion 581 of the FAA Reauthorization Act of 2018)
6 as section 44740.

7 (2) ANALYSIS.—The analysis for chapter 447 of
8 title 49, United States Code, is amended—

9 (A) by striking the item relating to the
10 second section 44737 (as added by section 581
11 of the FAA Reauthorization Act of 2018); and

12 (B) by inserting after the item relating to
13 section 44739 the following new items:

“44740. Special rule for certain aircraft operations.

“44741. Approval of organization designation authorization unit members.

“44742. Interference with the duties of organization designation authorization
unit members.”.

14 (3) SPECIAL RULE FOR CERTAIN AIRCRAFT OP-
15 ERATIONS.—Section 44740 of title 49, United States
16 Code (as redesignated by subsection (a)), is amend-
17 ed—

18 (A) in the heading by striking the period
19 at the end;

20 (B) in subsection (a)(1) by striking “chap-
21 ter” and inserting “section”;

22 (C) in subsection (b)(1) by striking “(1)”
23 the second time it appears; and

1 (D) in subsection (c)(2) by adding a period
2 at the end.

3 **SEC. 9. INTEGRATED PROJECT TEAMS.**

4 (a) IN GENERAL.—Upon receipt of an application for
5 a type certificate for a new transport airplane, the Admin-
6 istrator shall convene an interdisciplinary integrated
7 project team responsible for coordinating review of such
8 application.

9 (b) MEMBERSHIP.—In convening an interdisciplinary
10 integrated project team under subsection (a), the Adminis-
11 trator shall appoint employees of the Administration with
12 specialized expertise and experience in the fields of engi-
13 neering, systems design, human factors, and pilot train-
14 ing, including, at a minimum—

15 (1) not less than 1 designee of the Associate
16 Administrator for Aviation Safety whose duty sta-
17 tion is in the Administration’s headquarters;

18 (2) representatives of the Aircraft Certification
19 Service of the Administration;

20 (3) representatives of the Flight Standards
21 Service of the Administration;

22 (4) experts in the fields of human factors, aero-
23 dynamics, flight controls, software, and systems de-
24 sign; and

1 (5) any other subject matter expert whom the
2 Administrator determines appropriate.

3 **SEC. 10. OVERSIGHT INTEGRITY BRIEFING.**

4 Not later than 1 year after the date of enactment
5 of this Act, the Administrator shall brief the congressional
6 committees of jurisdiction on specific measures the Ad-
7 ministrator has taken to reinforce that each employee of
8 the Administration responsible for overseeing an organiza-
9 tion designation authorization with respect to the certifi-
10 cation of aircraft perform such responsibility in accord-
11 ance with safety management principles and in the public
12 interest of aviation safety.

13 **SEC. 11. APPEALS OF CERTIFICATION DECISIONS.**

14 (a) IN GENERAL.—Section 44704, of title 49, United
15 States Code, is further amended by adding at the end the
16 following:

17 “(g) CERTIFICATION DISPUTE RESOLUTION.—

18 “(1) DISPUTE RESOLUTION PROCESS AND AP-
19 PEALS.—

20 “(A) IN GENERAL.—Not later than 60
21 days after the date of enactment of this sub-
22 section, the Administrator shall issue an order
23 establishing—

24 “(i) an effective, timely, and mile-
25 stone-based issue resolution process for

1 type certification activities under sub-
2 section (a); and

3 “(ii) a process by which a decision,
4 finding of compliance or noncompliance, or
5 other act of the Administration, with re-
6 spect to compliance with design require-
7 ments, may be appealed by a covered per-
8 son directly involved with the certification
9 activities in dispute on the basis that such
10 decision, finding, or act is erroneous or in-
11 consistent with this chapter, regulations, or
12 guidance materials promulgated by the Ad-
13 ministrator, or other requirements.

14 “(B) ESCALATION.—The order issued
15 under subparagraph (A) shall provide for—

16 “(i) resolution of technical issues at
17 pre-established stages of the certification
18 process, as agreed to by the Administrator
19 and the type certificate applicant;

20 “(ii) automatic elevation to appro-
21 priate management personnel of the Ad-
22 ministration and the type certificate appli-
23 cant of any major certification process
24 milestone that is not completed or resolved
25 within a specific period of time agreed to

1 by the Administrator and the type certifi-
2 cate applicant;

3 “(iii) resolution of a major certifi-
4 cation process milestone elevated pursuant
5 to clause (ii) with a specific period of time
6 agreed to by the Administrator and the
7 type certificate applicant;

8 “(iv) initial review by appropriate Ad-
9 ministration employees of any appeal de-
10 scribed in subparagraph (A)(ii); and

11 “(v) subsequent review of any further
12 appeal by appropriate management per-
13 sonnel of the Administration and the Asso-
14 ciate Administrator for Aviation Safety.

15 “(C) DISPOSITION.—

16 “(i) WRITTEN DECISION.—The Asso-
17 ciate Administrator for Aviation Safety
18 shall issue a written decision on each ap-
19 peal submitted under subparagraph (A)(ii),
20 stating the grounds for the decision of the
21 Associate Administrator.

22 “(ii) REPORT TO CONGRESS.—Not
23 later than December 31 of each calendar
24 year through calendar year 2025, the Ad-
25 ministrator shall submit to the Committee

1 on Transportation and Infrastructure of
2 the House of Representatives and the
3 Committee on Commerce, Science, and
4 Transportation of the Senate a report
5 summarizing each appeal resolved under
6 this subsection.

7 “(D) FINAL REVIEW.—

8 “(i) IN GENERAL.—A written decision
9 of the Associate Administrator under sub-
10 paragraph (C) may be appealed to the Ad-
11 ministrator for a final review and deter-
12 mination.

13 “(ii) DECLINE TO REVIEW.—The Ad-
14 ministrator may decline to review an ap-
15 peal initiated pursuant to clause (i).

16 “(iii) JUDICIAL REVIEW.—Notwith-
17 standing any other provision of law, nei-
18 ther a final determination of the Adminis-
19 trator under clause (i) nor a decision to
20 decline to review an appeal under clause
21 (ii) shall be subject to judicial review.

22 “(2) PROHIBITED CONTACTS.—

23 “(A) PROHIBITION GENERALLY.—During
24 the course of an appeal under this subsection,
25 no covered official may engage in an ex parte

1 communication with an individual representing
2 or acting on behalf of an applicant for, or hold-
3 er of, a certificate under this section in relation
4 to such appeal unless such communication is
5 disclosed pursuant to subparagraph (B).

6 “(B) DISCLOSURE.—If, during the course
7 of an appeal under this subsection, a covered
8 official engages in, receives, or is otherwise
9 made aware of an ex parte communication, the
10 covered official shall disclose such communica-
11 tion in the public record at the time of the
12 issuance of the written decision in accordance
13 with subsection (g)(1)(C), including the time
14 and date of the communication, subject of com-
15 munication, and all persons engaged in such
16 communication.

17 “(3) DEFINITIONS.—In this subsection:

18 “(A) COVERED PERSON.—The term ‘cov-
19 ered person’ means either—

20 “(i) an employee of the Administra-
21 tion whose responsibilities relate to the cer-
22 tification of aircraft, engines, propellers, or
23 appliances; or

1 “(ii) an applicant for, or holder of, a
2 type certificate or amended type certificate
3 issued under this section.

4 “(B) COVERED OFFICIAL.—The term ‘cov-
5 ered official’ means the following officials:

6 “(i) The Executive Director or any
7 Deputy Director of the Aircraft Certifi-
8 cation Service.

9 “(ii) The Deputy Executive Director
10 for Regulatory Operations of the Aircraft
11 Certification Service.

12 “(iii) The Director or Deputy Director
13 of the Compliance and Airworthiness Divi-
14 sion of the Aircraft Certification Service.

15 “(iv) The Director or Deputy Director
16 of the System Oversight Division of the
17 Aircraft Certification Service.

18 “(v) The Director or Deputy Director
19 of the Policy and Innovation Division of
20 the Aircraft Certification Service.

21 “(vi) The Executive Director or any
22 Deputy Executive Director of the Flight
23 Standards Service.

1 “(vii) The Associate Administrator or
2 Deputy Associate Administrator for Avia-
3 tion Safety.

4 “(viii) The Deputy Administrator of
5 the Federal Aviation Administration.

6 “(ix) The Administrator of the Fed-
7 eral Aviation Administration.

8 “(x) Any similarly situated or suc-
9 cessor FAA management position, as de-
10 termined by the Administrator.

11 “(C) MAJOR CERTIFICATION PROCESS
12 MILESTONE.—The term ‘major certification
13 process milestone’ means a milestone related to
14 the type certification basis, type certification
15 plan, type inspection authorization, issue paper,
16 or other major type certification activity agreed
17 to by the Administrator and the type certificate
18 applicant.

19 “(4) RULE OF CONSTRUCTION.—Nothing in
20 this subsection shall apply to the communication of
21 a good-faith complaint by any individual alleging—

22 “(A) gross misconduct;

23 “(B) a violation of title 18; or

1 “(C) a violation of any of the provisions of
2 part 2635 or 6001 of title 5, Code of Federal
3 Regulations.”.

4 (b) CONFORMING AMENDMENT.—Section 44704(a)
5 is amended by striking paragraph (6).

6 **SEC. 12. EMPLOYMENT RESTRICTIONS.**

7 (a) DISQUALIFICATION BASED ON PRIOR EMPLOY-
8 MENT.—An employee of the Administration with super-
9 visory responsibility may not direct, conduct, or otherwise
10 participate in oversight of a holder of a certificate issued
11 under section 44704 that previously employed such em-
12 ployee in the preceding 1-year period.

13 (b) POST-EMPLOYMENT RESTRICTIONS.—Section
14 44711(d) of title 49, United States Code, is amended to
15 read as follows:

16 “(d) POST-EMPLOYMENT RESTRICTIONS FOR IN-
17 SPECTORS AND ENGINEERS.—

18 “(1) PROHIBITION.—A person holding a certifi-
19 cate issued under part 21 or 119 of title 14, Code
20 of Federal Regulations, may not knowingly employ,
21 or make a contractual arrangement that permits, an
22 individual to act as an agent or representative of
23 such person in any matter before the Administration
24 if the individual, in the preceding 2-year period—

1 “(A) served as, or was responsible for over-
2 sight of—

3 “(i) a flight standards inspector of the
4 Administration; or

5 “(ii) an employee of the Administra-
6 tion with responsibility for certification
7 functions with respect to a holder of a cer-
8 tificate issued under section 44704(a); and

9 “(B) had responsibility to inspect, or over-
10 see inspection of, the operations of such person.

11 “(2) WRITTEN AND ORAL COMMUNICATIONS.—

12 For purposes of paragraph (1), an individual shall
13 be considered to be acting as an agent or representa-
14 tive of a certificate holder in a matter before the Ad-
15 ministration if the individual makes any written or
16 oral communication on behalf of the certificate hold-
17 er to the Administration (or any of its officers or
18 employees) in connection with a particular matter,
19 whether or not involving a specific party and without
20 regard to whether the individual has participated in,
21 or had responsibility for, the particular matter while
22 serving as an individual covered under paragraph
23 (1).”.

1 **SEC. 13. PROFESSIONAL DEVELOPMENT AND SKILLS EN-**
2 **HANCEMENT.**

3 (a) IN GENERAL.—The Administrator shall—

4 (1) develop a program for regular recurrent
5 training of engineers, inspectors, and other subject-
6 matter experts employed in the Aircraft Certification
7 Service of the Administration in accordance with the
8 training strategy developed pursuant to section 231
9 of the FAA Reauthorization Act of 2018 (Public
10 Law 115–254; 132 Stat. 3256); and

11 (2) to the maximum extent practicable, imple-
12 ment measures, including assignments in multiple
13 divisions of the Aircraft Certification Service, to en-
14 sure that such engineers and other subject-matter
15 experts in the Aircraft Certification Service have ac-
16 cess to diverse professional opportunities that ex-
17 pand their knowledge and skills.

18 (b) IMPLEMENTATION.—The Administrator shall, to
19 the maximum extent practicable, ensure that actions taken
20 pursuant to subsection (a)—

21 (1) permit engineers, inspectors, and other sub-
22 ject matter experts to continue developing knowledge
23 of, and expertise in, new and emerging technologies
24 in systems design, flight controls, principles of avia-
25 tion safety, system oversight, and certification
26 project management;

1 (2) minimize the likelihood of an individual de-
2 veloping an inappropriate bias toward a designer or
3 manufacturer of aircraft, aircraft engines, propellers,
4 or appliances;

5 (3) are consistent with any applicable collective
6 bargaining agreements; and

7 (4) account for gaps in knowledge and skills be-
8 tween Administration employees and private-sector
9 employees, as identified by the exclusive bargaining
10 representatives certified under section 7111 of title
11 5, United States Code, for each group of Adminis-
12 tration employees covered under this section.

13 **SEC. 14. VOLUNTARY SAFETY REPORTING PROGRAM.**

14 (a) IN GENERAL.—Not later than 30 days after the
15 date of enactment of this Act, the Administrator shall
16 begin collaboration with the exclusive bargaining rep-
17 resentatives of engineers, safety inspectors, systems safety
18 specialists, and other subject matter experts certified
19 under section 7111 of title 5, United States Code, to im-
20 plement a confidential voluntary safety reporting program,
21 in a manner that is consistent with other voluntary report-
22 ing programs administered by the Administrator. The pro-
23 gram shall include provisions addressing, at a minimum—

24 (1) participation in all facets of the program by
25 the exclusive bargaining representatives for employ-

1 ees identified in the matter preceding this para-
2 graph;

3 (2) protections for frontline employees from ad-
4 verse employment actions related to their participa-
5 tion in the program;

6 (3) identification of exclusionary criteria; and

7 (4) creation of a corrective action process in
8 order to address safety issues that are identified
9 through the program.

10 (b) NEGOTIATIONS.—If the Administrator and the
11 representatives described in subsection (a) are unable to
12 reach an agreement collaboratively, the Administrator and
13 such representatives shall negotiate in accordance with
14 section 40122(a) of title 49, United States Code, to reach
15 agreement on the terms and conditions of such a program.

16 **SEC. 15. COMPENSATION LIMITATION.**

17 Notwithstanding any other provision of law, an em-
18 ployee of the Administration may not receive an adjust-
19 ment to the employee's compensation solely on the basis
20 of the employee's performance in meeting or exceeding a
21 deadline related to the completion of certification func-
22 tions.

1 **SEC. 16. SYSTEM SAFETY ASSESSMENTS AND OTHER RE-**
2 **QUIREMENTS.**

3 (a) IN GENERAL.—Not later than 2 years after the
4 date of enactment of this Act, the Administrator shall
5 issue such regulations as are necessary to amend title 14,
6 Code of Federal Regulations, and any associated advisory
7 circular, guidance, or policy of the Administration, in ac-
8 cordance with this section.

9 (b) SYSTEM SAFETY ASSESSMENTS AND OTHER RE-
10 QUIREMENTS.—In developing regulations under sub-
11 section (a), the Administrator shall—

12 (1) require an applicant for an amended type
13 certificate for a transport airplane to—

14 (A) perform a system safety assessment
15 with respect to each proposed design change
16 that the Administrator determines is signifi-
17 cant, with such assessment considering the air-
18 plane-level effects of individual errors, malfunc-
19 tions, or failures and realistic pilot response
20 times to such errors, malfunctions, or failures
21 related to such change;

22 (B) update such assessment to account for
23 each subsequent proposed design change that
24 the Administrator determines is significant; and

25 (C) provide appropriate employees of the
26 Administration with the data and assumptions

1 underlying each assessment and amended as-
2 sessment; and

3 (2) work with other civil aviation authorities
4 representing states of design to ensure such regula-
5 tions remain harmonized internationally.

6 (c) FAA REVIEW.—Appropriate employees of the
7 Aircraft Certification Service and the Flight Standards
8 Service of the Administration shall review each system
9 safety assessment required under subsection (b)(1)(A),
10 updated assessment required under subsection (b)(1)(B),
11 and supporting data and assumptions required under sub-
12 section (b)(1)(C), to ensure that each such assessment
13 sufficiently considers the matters listed under subsection
14 (b)(1).

15 **SEC. 17. FLIGHT CREW ALERTING.**

16 (a) IN GENERAL.—Not later than 1 year after the
17 date of enactment of this Act, the Administrator shall fully
18 implement National Transportation Safety Board rec-
19 ommendations A–19–11 and A–19–12 (as contained in
20 the safety recommendation report adopted on September
21 9, 2019).

22 (b) PROHIBITION.—Beginning on the date that is 2
23 years after the date of enactment of this Act, the Adminis-
24 trator may not issue a type certificate for a transport-cat-
25 egory aircraft unless—

1 (1) in the case of a transport airplane, such air-
2 plane incorporates a flight crew alerting system that,
3 at a minimum, displays and differentiates among
4 warnings, cautions, and advisories, and includes
5 functions to assist the flight crew in prioritizing cor-
6 rective actions and responding to systems failures; or

7 (2) in the case of a transport-category aircraft
8 other than a transport airplane, the type certificate
9 applicant provides a means acceptable to the Admin-
10 istrator to assist the flight crew in prioritizing cor-
11 rective actions and responding to systems failures
12 (including by cockpit or flight manual procedures).

13 **SEC. 18. AMENDED TYPE CERTIFICATES.**

14 (a) REVIEW AND REEVALUATION OF AMENDED TYPE
15 CERTIFICATES.—

16 (1) INTERNATIONAL LEADERSHIP.—The Ad-
17 ministrator shall exercise leadership in the creation
18 of international policies and standards relating to
19 the issuance of amended type certificates within the
20 group of international civil aviation authorities
21 known as the Certificate Management Team.

22 (2) REEVALUATION OF AMENDED TYPE CER-
23 TIFICATES.—In carrying out this subsection, the Ad-
24 ministrator shall—

1 (A) encourage Certificate Management
2 Team members to examine and address any rel-
3 evant covered recommendations (as defined in
4 section 22) relating to the issuance of amended
5 type certificates;

6 (B) reevaluate existing assumptions and
7 practices inherent in the amended type certifi-
8 cate process and assess whether such assump-
9 tions and practices are valid; and

10 (C) ensure, to the greatest extent prac-
11 ticable, that Federal regulations relating to the
12 issuance of amended type certificates are har-
13 monized with the regulations of other inter-
14 national states of design.

15 (b) AMENDED TYPE CERTIFICATE REPORT AND
16 RULEMAKING.—

17 (1) REPORT ON CERTIFICATE MANAGEMENT
18 TEAM EFFORTS.—Not later than 18 months after
19 the date of enactment of this Act, the Administrator
20 shall submit a report to the congressional commit-
21 tees of jurisdiction on the efforts by the Certificate
22 Management Team to modify and harmonize policies
23 and regulations relating to the issuance of amended
24 type certificates.

1 (2) INITIATION OF ACTION.—Not later than 2
2 years after the date of enactment of this Act, the
3 Administrator shall revise and improve the process
4 of issuing amended type certificates in accordance
5 with this section. Such action may include the revision
6 of guidance, the initiating of a rulemaking, or
7 such other action as the Administrator determines
8 necessary to implement this section.

9 (3) CONTENTS.—In taking an action required
10 under paragraph (2), the Administrator shall—

11 (A) consider—

12 (i) the findings and work of the Certificate Management Team and other similar international harmonization efforts;

13 (ii) any relevant covered recommendations (as defined in section 22); and

14 (iii) whether a fixed time beyond which a type certificate may not be amended would improve aviation safety; and

15 (B) establish the extent to which the following design characteristics should preclude the issuance of an amended type certificate:

16 (i) A new or revised flight control system.

1 (ii) Any substantial changes to aero-
2 dynamic stability resulting from a physical
3 change that may require a new or modified
4 software system or control law in order to
5 produce positive and acceptable stability
6 and handling qualities.

7 (iii) A flight control system or aug-
8 mented software to maintain aerodynamic
9 stability in any portion of the flight enve-
10 lope that was not required for a previously
11 certified derivative.

12 (iv) A change in structural compo-
13 nents (other than a stretch or shrink of
14 the fuselage) that results in a change in
15 structural load paths or the magnitude of
16 structural loads attributed to flight maneu-
17 vers or cabin pressurization.

18 (v) A novel or unusual system, compo-
19 nent, or other feature whose failure would
20 present a hazardous or catastrophic risk.

21 (4) DEADLINE.—The Administrator shall final-
22 ize the actions initiated under paragraph (2) not
23 later than 3 years after the date of enactment of
24 this Act.

1 (c) INTERNATIONAL LEADERSHIP.—The Adminis-
2 trator shall exercise leadership within the International
3 Civil Aviation Organization and among other civil aviation
4 regulators representing states of aircraft design to advo-
5 cate for the adoption of requirements equivalent to those
6 described in this section.

7 **SEC. 19. WHISTLEBLOWER PROTECTIONS.**

8 Section 42121 of title 49, United States Code, is
9 amended—

10 (1) by striking subsection (a) and inserting the
11 following:

12 “(a) PROHIBITED DISCRIMINATION.—A holder of a
13 certificate under section 44704 or 44705 of this title, or
14 contractor or subcontractor of such holder, may not dis-
15 charge an employee or otherwise discriminate against an
16 employee with respect to compensation, terms, conditions,
17 or privileges of employment because the employee (or any
18 person acting pursuant to a request of the employee)—

19 “(1) provided, caused to be provided, or is
20 about to provide (with any knowledge of the em-
21 ployer) or cause to be provided to the employer or
22 Federal Government information relating to any vio-
23 lation or alleged violation of any order, regulation,
24 or standard of the Federal Aviation Administration
25 or any other provision of Federal law relating to

1 aviation safety under this subtitle or any other law
2 of the United States;

3 “(2) has filed, caused to be filed, or is about to
4 file (with any knowledge of the employer) or cause
5 to be filed a proceeding relating to any violation or
6 alleged violation of any order, regulation, or stand-
7 ard of the Federal Aviation Administration or any
8 other provision of Federal law relating to aviation
9 safety under this subtitle or any other law of the
10 United States;

11 “(3) testified or is about to testify in such a
12 proceeding; or

13 “(4) assisted or participated or is about to as-
14 sist or participate in such a proceeding.”;

15 (2) by striking subsection (d) and inserting the
16 following:

17 “(d) NONAPPLICABILITY TO DELIBERATE VIOLA-
18 TIONS.—Subsection (a) shall not apply with respect to an
19 employee of a holder of a certificate issued under section
20 44704 or 44705, or a contractor or subcontractor thereof,
21 who, acting without direction from such certificate-holder,
22 contractor, or subcontractor (or such person’s agent), de-
23 liberately causes a violation of any requirement relating
24 to aviation safety under this subtitle or any other law of
25 the United States.”; and

1 (3) by striking subsection (e) and inserting the
2 following:

3 “(e) CONTRACTOR DEFINED.—In this section, the
4 term ‘contractor’ means—

5 “(1) a person that performs safety-sensitive
6 functions by contract for an air carrier or commer-
7 cial operator; or

8 “(2) a person that performs safety-sensitive
9 functions related to the design or production of an
10 aircraft, aircraft engine, propeller, appliance, or
11 component thereof by contract for a holder of a cer-
12 tificate issued under section 44704.”.

13 **SEC. 20. PILOT TRAINING.**

14 (a) IN GENERAL.—Chapter 447 of title 49, United
15 States Code, as amended by section 8, is further amended
16 by adding at the end the following:

17 **“§ 44743. Pilot training requirements**

18 “(a) IN GENERAL.—

19 “(1) ADMINISTRATOR’S DETERMINATION.—In
20 establishing any pilot training requirements with re-
21 spect to a new transport airplane, the Administrator
22 of the Federal Aviation Administration shall inde-
23 pendently review any proposal by the manufacturer
24 of such airplane with respect to the scope, format,

1 or minimum level of training required for operation
2 of such airplane.

3 “(2) ASSURANCES AND MARKETING REPRESENTATIONS.—Before the Administrator has established
4 applicable training requirements, an applicant for a
5 new or amended type certificate for an airplane described in paragraph (1) may not, with respect to
6 the scope, format, or magnitude of pilot training for
7 such airplane—
8
9

10 “(A) make any assurance, whether verbal
11 or in writing, to a potential purchaser of such
12 airplane unless a clear and conspicuous disclaimer (as defined by the Administrator) is included regarding the status of training required
13 for operation of such airplane; or
14
15

16 “(B) provide financial incentives (including
17 rebates) to a potential purchaser of such airplane regarding the scope, format, or magnitude of pilot training for such airplane.
18
19

20 “(b) PILOT RESPONSE TIME.—Beginning on the day
21 after the date on which regulations are issued under section 20(b)(5) of the Aircraft Certification Reform and Accountability Act, the Administrator may not issue a new
22 or amended type certificate for an airplane described in
23 subsection (a) unless the applicant for such certificate has
24
25

1 demonstrated to the Administrator that the applicant has
2 accounted for realistic assumptions regarding the time for
3 pilot responses to non-normal conditions in designing the
4 systems and instrumentation of such airplane. Such as-
5 sumptions shall—

6 “(1) be based on test data, analysis, or other
7 technical validation methods; and

8 “(2) account for generally accepted scientific
9 consensus among experts in human factors regard-
10 ing realistic pilot response time.

11 “(c) DEFINITION.—In this section, the term ‘trans-
12 port airplane’ means a transport-category airplane de-
13 signed for operation by an air carrier or foreign air carrier
14 type-certificated with a passenger seating capacity of 30
15 or more or an all-cargo or combi derivative of such an
16 airplane.”.

17 (b) CONFORMING AMENDMENT.—The analysis for
18 chapter 447 of title 49, United States Code, is further
19 amended by adding at the end the following:

“44743. Pilot training requirements.”.

20 (c) EXPERT SAFETY REVIEW.—

21 (1) IN GENERAL.—Not later than 30 days after
22 the date of enactment of this Act, the Administrator
23 shall initiate an expert safety review of assumptions
24 relied upon by the Administration and manufactur-

1 ers of transport-category aircraft in the design and
2 certification of such aircraft.

3 (2) CONTENTS.—The expert safety review re-
4 quired under paragraph (1) shall include—

5 (A) a review of Administration regulations,
6 guidance, and directives related to pilot re-
7 sponse assumptions relied upon by the FAA
8 and manufacturers of transport-category air-
9 craft in the design and certification of such air-
10 craft;

11 (B) a focused review of the assumptions
12 relied on regarding the time for pilot responses
13 to non-normal conditions in designing such air-
14 craft's systems and instrumentation;

15 (C) a review of revisions made to the air-
16 man certification standards for certificates over
17 the last four years, including any possible ef-
18 fects on pilot competency in basic manual flying
19 skills;

20 (D) consideration of the global nature of
21 the aviation marketplace, varying levels of pilot
22 competency, and differences in pilot training
23 programs worldwide; and

24 (E) a process for aviation stakeholders, in-
25 cluding pilots, airlines, inspectors, engineers,

1 test pilots, human factors experts, and other
2 aviation safety experts, to provide and discuss
3 any observations, feedback, and best practices.

4 (3) REPORT AND RECOMMENDATIONS.—Not
5 later than 30 days after the conclusion of the expert
6 safety review pursuant to paragraph (1), the Admin-
7 istrator shall submit to the congressional committees
8 of jurisdiction a report on the results of the review,
9 any recommendations for actions or best practices to
10 ensure the FAA and the manufacturers of transport-
11 category aircraft have accounted for pilot response
12 assumptions to be relied upon in the design and cer-
13 tification of transport-category aircraft.

14 (4) TERMINATION.—The expert safety review
15 shall end upon submission of the report required
16 pursuant to paragraph (3).

17 (5) REGULATIONS.—The Administrator shall
18 issue such regulations as are necessary to implement
19 the recommendations of the expert safety review
20 that the Administrator determines are necessary to
21 improve aviation safety.

22 (d) CALL TO ACTION ON AIRMAN CERTIFICATION
23 STANDARDS.—

24 (1) IN GENERAL.—Not later than 60 days after
25 the date of enactment of this Act, the Administrator

1 shall initiate a call to action safety review of pilot
2 certification standards in order to bring stakeholders
3 together to share lessons learned, best practices, and
4 implement actions to address any safety issues identified.
5

6 (2) CONTENTS.—The call to action safety review
7 required under paragraph (1) shall include—

8 (A) a review of Administration regulations,
9 guidance, and directives related to the pilot certification
10 standards, including the oversight of
11 those processes;

12 (B) a review of revisions made to the pilot
13 certification standards for certificates over the
14 last four years, including any possible effects on
15 pilot competency in manual flying skills and effectively
16 managing automation to improve safety;
17 and

18 (C) a process for aviation stakeholders, including
19 aviation students, instructors, designated pilot examiners,
20 pilots, airlines, labor, and aviation safety experts, to provide
21 and discuss any observations, feedback, and best practices.
22
23

24 (3) REPORT AND RECOMMENDATIONS.—Not
25 later than 90 days after the conclusion of the call to

1 action safety review pursuant to paragraph (1), the
2 Administrator shall submit to the congressional com-
3 mittees of jurisdiction a report on the results of the
4 review, any recommendations for actions or best
5 practices to ensure pilot competency in basic manual
6 flying skills and in effective management of automa-
7 tion, and actions the Administrator will take in re-
8 sponse to the recommendations.

9 (e) INTERNATIONAL PILOT TRAINING.—

10 (1) IN GENERAL.—The Secretary of Transpor-
11 tation, the Administrator, and other appropriate of-
12 ficials of the Government shall exercise leadership in
13 setting global standards to improve air carrier pilot
14 training and qualifications for—

15 (A) monitoring and managing the behavior
16 and performance of automated systems;

17 (B) controlling the flightpath of aircraft
18 without autoflight systems engaged;

19 (C) effectively utilizing and managing
20 autoflight systems, when appropriate;

21 (D) effectively identifying situations in
22 which the use of autoflight systems is appro-
23 priate and when such use is not appropriate;
24 and

1 (E) recognizing and responding appro-
2 priately to non-normal conditions.

3 (2) INTERNATIONAL LEADERSHIP.—The Sec-
4 retary, the Administrator, and other appropriate of-
5 ficials of the Government shall exercise leadership
6 under subsection (a) by working with—

7 (A) foreign counterparts of the Adminis-
8 trator in the International Civil Aviation Orga-
9 nization and its subsidiary organizations;

10 (B) other international organizations and
11 fora; and

12 (C) the private sector.

13 (3) CONSIDERATIONS.—In exercising leadership
14 under paragraph (1), the Secretary, the Adminis-
15 trator, and other appropriate officials of the Govern-
16 ment shall consider—

17 (A) the latest information relating to
18 human factors;

19 (B) aircraft manufacturing trends, includ-
20 ing those relating to increased automation in
21 the cockpit;

22 (C) the extent to which cockpit automation
23 improves aviation safety and introduces novel
24 risks;

1 (D) the availability of opportunities for pi-
 2 lots to practice manual flying skills;

3 (E) the need for consistency in maintain-
 4 ing and enhancing manual flying skills world-
 5 wide;

6 (F) recommended practices of other coun-
 7 tries that enhance manual flying skills and au-
 8 tomation management; and

9 (G) whether a need exists for initial and
 10 recurrent training standards for improve pilots'
 11 proficiency in manual flight and in effective
 12 management of autoflight systems.

13 (4) CONGRESSIONAL BRIEFING.—The Sec-
 14 retary, the Administrator, and other appropriate of-
 15 ficials of the Government shall provide to the con-
 16 gressional committees of jurisdiction regular brief-
 17 ings on the status of efforts undertaken pursuant to
 18 this section.

19 **SEC. 21. NONCONFORMITY WITH APPROVED TYPE DESIGN.**

20 Section 44704(a) of title 49, United States Code, is
 21 further amended by adding at the end the following:

22 “(6) NONCONFORMITY WITH APPROVED TYPE
 23 DESIGN.—

24 “(A) IN GENERAL.—Except as provided in
 25 subparagraph (D), a holder of a production cer-

1 tificate for an aircraft may not present a non-
2 conforming aircraft to the Administrator for
3 issuance of an airworthiness certificate.

4 “(B) CIVIL PENALTY.—Notwithstanding
5 section 46301, a production certificate holder
6 who knowingly violates subparagraph (A) shall
7 be liable to the Administrator for a civil penalty
8 of not more than \$1,000,000 for each noncon-
9 forming aircraft.

10 “(C) PENALTY CONSIDERATIONS.—In de-
11 termining the amount of a civil penalty under
12 subparagraph (B), the Administrator shall con-
13 sider—

14 “(i) the nature, circumstances, extent,
15 and gravity of the violation, including the
16 length of time the nonconformity was
17 known but not disclosed; and

18 “(ii) with respect to the violator, the
19 degree of culpability, any history of prior
20 violations, and the size of the business con-
21 cern.

22 “(D) REMEDIAL ACTION.—The Adminis-
23 trator may permit a production certificate hold-
24 er to present a nonconforming aircraft to the

1 Administrator for an airworthiness certificate
2 if—

3 “(i) the Administrator determines the
4 nonconformity, when compared to the con-
5 figuration approved as part of the type de-
6 sign, does not diminish by any degree the
7 aircraft’s safe operation without any
8 change in flight crew operating procedures;

9 “(ii) the Administrator determines the
10 nonconformity was not the product of an
11 intentional decision by the production cer-
12 tificate holder to alter the aircraft’s con-
13 figuration from the approved type design;

14 “(iii) the production certificate holder
15 has fully complied with subparagraph (E);

16 “(iv) the production certificate holder
17 agrees to correct the nonconformity on all
18 nonconforming aircraft within a timeframe
19 that is—

20 “(I) prescribed by the Adminis-
21 trator; and

22 “(II) commensurate with the se-
23 verity of the nonconformity;

24 “(v) the production certificate holder
25 informs a person who is to take delivery of

1 the nonconforming aircraft of the non-
2 conformance prior to its delivery; and

3 “(vi) the production certificate holder
4 agrees not to impose any penalty, financial
5 or otherwise, on a person that chooses to
6 delay the delivery of a nonconforming air-
7 craft until the production certificate hold-
8 er, to the Administrator’s satisfaction, con-
9 forms the aircraft to the approved type de-
10 sign of such aircraft.

11 “(E) NOTIFICATION AND PROPOSED REME-
12 DIAL ACTION.—A production certificate holder
13 shall, within 5 days of determining that such
14 production certificate holder delivered a noncon-
15 forming aircraft, notify the Administrator, the
16 purchaser of the airplane, and (if the purchaser
17 is a lessor) the intended operator of the air-
18 plane, if known. A notification under this clause
19 shall describe—

20 “(i) the nonconformity in detail; and

21 “(ii) the production certificate hold-
22 er’s initial proposal for actions necessary
23 to eliminate the nonconformity.

24 “(F) NONCONFORMING AIRCRAFT DE-
25 FINED.—In this paragraph, the term ‘noncon-

1 forming aircraft’ means an aircraft that does
2 not conform to the approved type design for
3 such aircraft type.”.

4 **SEC. 22. IMPLEMENTATION OF RECOMMENDATIONS.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of enactment of this Act, the Administrator shall sub-
7 mit a report to the congressional committees of jurisdic-
8 tion on the status of the Administration’s implementation
9 of covered recommendations.

10 (b) CONTENTS.—The report required under sub-
11 section (a) shall contain, at a minimum—

12 (1) a list and description of all covered rec-
13 ommendations;

14 (2) a determination of whether the Adminis-
15 trator concurs, concurs in part, or does not concur
16 with each covered recommendation;

17 (3) an implementation plan and schedule for all
18 covered recommendations the Administrator concurs
19 or concurs in part with; and

20 (4) for each covered recommendation with
21 which the Administrator does not concur (in whole
22 or in part), a detailed explanation as to why.

23 (c) COVERED RECOMMENDATIONS DEFINED.—In
24 this section, the term “covered recommendations” means
25 recommendations made by the following entities in any re-

1 view initiated in response to the accident of Lion Air flight
2 610 on October 29, 2018, or Ethiopian Airlines flight 302
3 on March 10, 2019, that recommend Administration ac-
4 tion:

5 (1) The National Transportation Safety Board.

6 (2) The Joint Authorities Technical Review.

7 (3) The inspector general of the Department of
8 Transportation.

9 (4) The Safety Oversight and Certification Ad-
10 visory Committee, or any special committee thereof.

11 (5) Any other entity the Administrator may
12 designate.

13 **SEC. 23. OVERSIGHT OF FAA COMPLIANCE PROGRAM.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of enactment of this Act, the Administrator shall es-
16 tablish an Executive Council within the Administration to
17 oversee the use and effectiveness across program offices
18 of the Administration’s Compliance Program, described in
19 Order 8000.373A dated October 31, 2018.

20 (b) COMPLIANCE PROGRAM OVERSIGHT.—The Exec-
21 utive Council established under this section shall—

22 (1) monitor, collect, and analyze data on the
23 use of the Compliance Program across program of-
24 fices of the Administration, including data on en-

1 enforcement actions and compliance actions pursued
2 against regulated entities by such program offices;

3 (2) conduct an evaluation of the Compliance
4 Program, not less frequently than annually each cal-
5 endar year through 2023, to assess the functioning
6 and effectiveness of such program in meeting the
7 stated goals and purpose of the program;

8 (3) provide reports to the Administrator con-
9 taining the results of any evaluation conducted
10 under paragraph (2), including identifying in such
11 report any nonconformities or deficiencies in the im-
12 plementation of the program and compliance of reg-
13 ulated entities with safety standards of the Adminis-
14 tration;

15 (4) make recommendations to the Adminis-
16 trator on regulations, guidance, performance stand-
17 ards or metrics, or other controls that should be
18 issued by the Administrator to improve the effective-
19 ness of the Compliance Program in meeting the stat-
20 ed goals and purpose of the program and to ensure
21 the highest levels of aviation safety; and

22 (5) carry out any other oversight duties with re-
23 spect to implementation of the Compliance Program
24 and assigned by the Administrator.

25 (c) EXECUTIVE COUNCIL.—

1 (1) EXECUTIVE COUNCIL MEMBERSHIP.—The
2 Compliance Program Executive Council shall be
3 comprised of representatives from each program of-
4 fice with regulatory responsibility as provided in
5 Order 8000.373A.

6 (2) CHAIRPERSON.—The Executive Council
7 shall be chaired by a person, who shall be appointed
8 by the Administrator and shall report directly to the
9 Administrator.

10 (3) INDEPENDENCE.—The Secretary of Trans-
11 portation, the Administrator, or any officer or em-
12 ployee of the Administration may not prevent or pro-
13 hibit the chair of the Executive Council from per-
14 forming the activities described in this section or
15 from reporting to Congress on such activities.

16 (4) DURATION.—The Executive Council shall
17 terminate on October 1, 2023.

18 (d) ANNUAL BRIEFING.—Each calendar year
19 through 2023, the chair of the Executive Council shall
20 provide a briefing to the congressional committees of juris-
21 diction on the effectiveness of the Administration’s Com-
22 pliance Program in meeting the stated goals and purpose
23 of the program and the activities of the office described
24 in subsection (b), including any reports and recommenda-

1 tions made by the office during the preceding calendar
2 year.

3 **SEC. 24. SETTLEMENT AGREEMENT.**

4 (a) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the Administrator should fully exercise all
6 rights and pursue all remedies available to the Adminis-
7 trator under any settlement agreement between the Ad-
8 ministration and the holder of a type certificate and pro-
9 duction certificate for transport airplanes executed on De-
10 cember 18, 2015, including a demand for full payment of
11 any applicable civil penalties deferred under such agree-
12 ment, if the Administrator concludes that such holder has
13 not fully performed all obligations incurred under such
14 agreement.

15 (b) CONGRESSIONAL BRIEFING.—Not later than
16 February 1, 2021, and every 6 months thereafter until
17 a certificate holder described in subsection (a) has fully
18 performed all obligations incurred by such certificate hold-
19 er under such settlement agreement, the Administrator
20 shall brief the congressional committees of jurisdiction on
21 action taken consistent with subsection (a).

22 **SEC. 25. HUMAN FACTORS.**

23 (a) AIRCRAFT CERTIFICATION PROCESS.—

24 (1) EVALUATION.—Not later than 18 months
25 after the date of enactment of this Act, the Adminis-

1 trator (acting through the Associate Administrator
2 for Aviation Safety of the Administration) shall—

3 (A) conduct an evaluation of the develop-
4 ment of tools and methods to support the inte-
5 gration of human factors assessment and sys-
6 tem safety assessments of human interaction
7 with flight deck and flight control systems for
8 transport airplanes into the aircraft certifi-
9 cation process under section 44704 of title 49,
10 United States Code; and

11 (B) develop a framework to better inte-
12 grate human factors throughout such aircraft
13 certification process with the objective of im-
14 proving safety by designing systems and train-
15 ing pilots in a manner that accounts for con-
16 temporary knowledge to reduce the possibility
17 of an accident resulting in whole or in part
18 from the pilot's interaction with the aircraft.

19 (2) REPORT TO CONGRESS.—Not later than 60
20 days after the completion of the evaluation required
21 under paragraph (1), the Administrator shall submit
22 to Congress a report detailing the findings of such
23 report and a plan for implementation based on such
24 findings of such report.

1 (3) IMPLEMENTATION.—Upon submission of
2 the report required under paragraph (2), the Admin-
3 istrator shall implement the findings of such evalua-
4 tion.

5 (b) HUMAN FACTORS EDUCATION PROGRAM.—

6 (1) IN GENERAL.—The Administrator shall de-
7 velop a human factors education program that ad-
8 dresses the effects of modern flight deck systems, in-
9 cluding automated systems, on human performance
10 for transport airplanes and the approaches for better
11 integration of human factors in aircraft design and
12 certification.

13 (2) TARGET AUDIENCE.—The human factors
14 education program shall be integrated into the train-
15 ing protocol in existence as of the date of the enact-
16 ment of this Act such that such program is routinely
17 administered to the following:

18 (A) Appropriate employees within the
19 Flight Standards Service.

20 (B) Appropriate employees within the Air-
21 craft Certification Service.

22 (C) Other employees or authorized rep-
23 resentatives determined to be necessary by the
24 Administrator.

1 (c) TRANSPORT AIRPLANE MANUFACTURER INFOR-
2 MATION SHARING.—The Administrator shall—

3 (1) require each transport airplane manufac-
4 turer to provide the Administrator with the informa-
5 tion or findings necessary for flight crew to be
6 trained on flight deck systems;

7 (2) ensure the information or findings under
8 paragraph (1) adequately includes consideration of
9 human factors; and

10 (3) ensure that each transport airplane manu-
11 facturer identifies any technical basis, justification
12 or rationale for the information and findings under
13 paragraph (1).

14 **SEC. 26. TECHNICAL CORRECTIONS.**

15 Section 46301 of title 49, United States Code, is
16 amended—

17 (1) in subsection (a)(1)(A) by striking “(except
18 sections 44717 and 44719–44723)” and inserting
19 “(except sections 44704(a)(6), 44704(e)(4), 44717,
20 and 44719–44723)”;

21 (2) in subsection (a)(5)(A) by striking “(except
22 sections 44717–44723)” and inserting “(except sec-
23 tions 44704(a)(6), 44704(e)(4), and 44717–
24 44723)”;

1 (3) in subsection (d)(2) by striking “(except
2 sections 44717 and 44719–44723)” and inserting
3 “(except sections 44704(a)(6), 44704(e)(4), 44717,
4 and 44719–44723)”; and

5 (4) in subsection (f)(1)(A)(i) by striking “(ex-
6 cept sections 44717 and 44719–44723)” and insert-
7 ing “(except sections 44704(a)(6), 44704(e)(4),
8 44717, and 44719–44723)”.

9 **SEC. 27. DEFINITIONS.**

10 In this Act:

11 (1) ADMINISTRATION; FAA.—The terms “Ad-
12 ministration” and “FAA” mean the Federal Avia-
13 tion Administration.

14 (2) ADMINISTRATOR.—The term “Adminis-
15 trator” means the Administrator of the FAA.

16 (3) ORGANIZATION DESIGNATION AUTHORIZA-
17 TION.—The term “organization designation author-
18 ization” has the same meaning given such term in
19 section 44736 of title 49, United States Code.

20 (4) CONGRESSIONAL COMMITTEES OF JURISDIC-
21 TION.—The term “congressional committees of juris-
22 diction” means the Committee on Transportation
23 and Infrastructure of the House of Representatives
24 and the Committee on Commerce, Science, and
25 Transportation of the Senate.

1 (5) HUMAN FACTORS.—The term “human fac-
2 tors” means a multidisciplinary set of principles de-
3 veloped to holistically explain and predict pilot be-
4 havior in relation to the management of the oper-
5 ation of an aircraft, including the pilot’s manage-
6 ment of aircraft systems and response to systems
7 failures and non-normal conditions.

8 (6) TRANSPORT AIRPLANE.—The term “trans-
9 port airplane” means a transport-category airplane
10 designed for operation by an air carrier or foreign
11 air carrier type-certificated with a passenger seating
12 capacity of 30 or more or an all-cargo or combi de-
13 rivative of such an airplane.

14 (7) TYPE CERTIFICATE.—The term “type cer-
15 tificate”—

16 (A) means a type certificate issued pursu-
17 ant to section 44704(a) of title 49, United
18 States Code, or an amendment to such certifi-
19 cate; and

20 (B) does not include a supplemental type
21 certificate issued under section 44704(b) of
22 such section.

Union Calendar No. 477

116TH CONGRESS
2D Session

H. R. 8408

[Report No. 116-579]

A BILL

To direct the Administrator of the Federal Aviation Administration to require certain safety standards relating to aircraft, and for other purposes.

NOVEMBER 16, 2020

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed